



# E-Rate Support Services

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August 30, 2017

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554  
ELECTRONICALLY FILED VIA ECFS

**Re CC Docket No. 02-6  
PETITION FOR RECONSIDERATION**

**Funding App #553171 FRN 1526656 cited on FCC Form 486 #1201687  
Funding App #863619 FRN 2353086 cited on FCC Form 486 #1201707  
Funding App #863619 FRN 2352947 cited on FCC Form 486 #1201707  
Funding App #925993 FRN 2527485 cited on FCC Form 486 #1201727  
Funding App #988781 FRN 2698058 cited on FCC Form 486 #1201747  
Funding App #988781 FRN 2698010 cited on FCC Form 486 #1201747  
Funding App #988781 FRN 2697900 cited on FCC Form 486 #1201747  
Funding App #1049661 FRN 2866469 cited on FCC Form 486 #1201748**

Dear Secretary Dortch,

With this letter New Glarus School District ("NGSD") prays that the Wireline Competition Bureau ("Bureau") reconsider its earlier decision<sup>1</sup> and grant NGSD's request on appeal<sup>2</sup> of a decision by the Universal Service Fund Administrator ("USAC") under the Schools and Libraries Universal Service Support Mechanism (commonly known as "E-Rate") to set the funding Service Start Date to the first day of the funding year for the captioned Funding Requests.

## **Background**

In its decision the Bureau denied NGSD's appeal because it was filed on July 3 – just three business days after the appeal deadline set in the *Archdiocese of New Orleans Order*<sup>3</sup>. In its July 3 letter NGSD prayed that the Bureau would act consistently with

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<sup>1</sup> *Streamlined Resolution of Requests Related To Actions by the Universal Service Administrative Company*, Public Notice DA 17-712 (released 7/31/2017)

<sup>2</sup> Letter from Don Malaise to the Commission dated and filed 7/3/2017, and supplemented with a filing on 7/12/2017.

<sup>3</sup> See *Archdiocese of New Orleans et al*, 31 FCC Rcd 11747 (2016).

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numerous precedent orders and long-standing policy<sup>4</sup> and waive the appeal deadline, since NGSD missed the appeal deadline by only a few days. In each of these many precedent decisions the Bureau found that missing the deadline for an appeal of a Universal Service Fund Administrator decision by just a few days is a special circumstance which warrants a deviation from the general rule, and that such a deviation will serve the public interest<sup>5</sup>.

### **Analysis**

Petitioner NGSD had missed an appeal deadline by just a few days. In its decision the Bureau erred in not granting a waiver of the appeal deadline, as the Bureau has already found that this is a special situation that justifies a waiver grant.

### **Relief requested**

NGSD prays that the Bureau will reconsider its earlier decision, grant the waiver sought for the appeal deadline, and adjudicate NGSD's appeal (requesting that the Service Start Dates be set to the first day of each respective funding year) on its merits.

Respectfully,



David A. Behar  
Consultant to New Glarus School District

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<sup>4</sup> E.g., see *ABC Unified School District Order, et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (WCB 2011) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late)

<sup>5</sup> See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).